

Gender Recognition Factsheet

The Gender Recognition Act became law on 4 April 2005. The purpose of the Act is to enable transsexual people to gain legal recognition in their acquired gender. Recognition of the acquired gender takes effect from the day an application is granted by a Gender Recognition Panel and a Gender Recognition Certificate (GRC) is issued. In practical terms, legal recognition will have the effect that, for example, a male-to- female transsexual person will be legally recognised as a woman.

The Gender Recognition Certificate (GRC)

To be granted a GRC, an individual must not be married at the time of their application. The issuing of a GRC allows the individual to apply for a new birth certificate in their chosen gender. While transsexual people born outside the UK will be able to apply for, and be granted legal recognition in their chosen gender and consequently issued with a GRC, they will not be entitled to a UK birth certificate.

The Act is silent on what needs to be done or what a successful applicant must do to have records, such as pension records, officially amended. In the main the HSC Pension Scheme Regulations are equalised, however there are a small number which remain gender specific where it could be beneficial to be recognised in a different gender. It is for this reason that HSC Pensions has adopted a policy whereby in order to have data such as gender officially altered on the member's record; we require sight of the relevant document.

Members should be directed to forward either their original GRC or a certified copy to HSC Pension Service to have their member record amended to their legal gender. Alternatively, if they prefer, a birth certificate showing their recognised gender may be sent.

Implications for scheme members

The Act stipulates that historic pension events cannot be changed, but any future benefits are to be paid in accordance with the gender at the time of payment. As the Scheme regulations are in the main equalised, there will be minimal implications to members, the exceptions being:

- Members of the Special Classes
- Members who have Scheme membership before 25 March 1972
- Transfer factors

Special Classes

For members of the Special Classes who are considering applying for gender recognition, their benefits will be affected dependent on which way the gender is changed.

A change in gender from male to female – female members of the special classes are entitled to retire with benefits from age 55, provided their last 5 years membership is in one of the special class jobs.

A change in gender from female to male – male members of the special classes are entitled to retire with benefits from age 55, provided their last 5 years membership is in one of the special class jobs, but their benefits will be based on membership from 17 May 1990 only.

Benefits for membership before that date will not be paid until normal retirement age, unless the member chooses actuarially reduced voluntary early retirement.

Male to female members will be subject to an actuarial reduction on any Added Years contract credit bought, if the original contract to purchase additional membership is to age 60/65 and they subsequently retire earlier due to a change in gender.

Members who hold Mental Health Officer (MHO) status are not affected as all MHO members can retire at age 55 with full benefits, as long as they have achieved at least 20 years MHO membership.

For members considering applying for gender recognition, their benefits will be affected dependent on which way the gender is changed, if they have membership before 25 March 1972.

A change in gender from female to male – membership before 25 March 1972 will only attract the reduced lump sum for those male members who are either married or have entered into a civil partnership. These members will have the option to purchase the unreduced lump sum retiring allowance (URLSRA) for any membership before 25 March 1972.

A change in gender from male to female – membership before 25 March 1972 will attract the full lump sum. Male to female members who have bought the ULSRA will not be entitled to a refund of the contract.

Until HSC Pensions receives the GRC or equivalent documentation to enable them to amend a member's gender, some automatically generated responses to pension queries will reflect the data currently shown on the member's record, such as name and salutation, as there is no facility within the process to amend these prior to dispatch.

Data protection is a sensitive area. It is an offence for any person to disclose information acquired in an official capacity about a person's application for a GRC or about the gender history of a successful applicant. This information is termed 'protected information' under the Act. Employers should be aware that personal information should not be divulged without the member's express permission.

There are specific exceptions in the Act to the general prohibition on disclosure. For example, disclosure will not constitute an offence where the person to be identified has consented to the disclosure or where the disclosure is for the purposes of proceedings before a court or tribunal.

On receipt of the GRC, HSC Pension Service handles the certificate securely in the same way as a birth, death and marriage certificate and ensures that all documentation is returned safely to the member. A copy of the GRC is not retained on the member record unless the member authorises HSC Pension Service to do so.